

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6084 of 1983

Date of decision: 31-7-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ASHVINKUMAR D SHAH

Versus

STATE OF GUJARAT  
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Appearance:

MR GIRISH PATEL for Petitioner

Mr. N.N. Pandya for Respondent No. 1 and 2

None present for respondent No.3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/07/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner in this special civil application has prayed for declaring the impugned letter dated 8-1-1981 as arbitrary, irrational, unconstitutional, and violative of Articles 14 and 16 of the Constitution. Prayer has also been made for restraining the respondents from enforcing, implementing or taking any action in pursuance of the impugned letter dated 8-1-1981. The disputes centres round the question for grant of continuity of service and pay fixed on 1-1-1973 at Rs.860/- and increments thereafter with all other incidental and ancillary benefits payable to the petitioner. It is not in dispute that during the interregnum the petitioner had worked at other colleges on part time basis and that period was not taken to be continuous service and that position was made clear by letter dated 8-1-1981.

2. The counsel for the petitioner raised only one contention that in view of the Government's own resolution dated 15th January, 1982 the case of the petitioner deserved to be considered by the respondents and he is entitled to the benefits prayed for in the writ petition. The counsel for the petitioner further contended that the date on which the letter dated 8-1-1981 was issued deciding the rights of the petitioner regulation dated 15th January 1982 was not there.

3. Reply to the writ petition has not been filed by the respondents. The counsel for the respondents contended that the petitioner may make representation giving reference to the resolution dated 15th January, 1982 and respondent No.2 will consider the same and in case he is found entitled to the benefits as prayed for in the special civil application the same may be granted to him. The counsel for the petitioner has no objection in case respondent No.2 considers the representation in the light of resolution dated 15th January, 1982.

4. Taking into consideration the aforesaid submissions made by the learned counsel for the parties, I am of the opinion that interest of justice will be met in case the special civil application is disposed of with direction to respondent No.2 to consider the special civil application itself as representation of the petitioner. The petitioner, if he so desires, may do so by filing supplementary representation and any other document within a period of one month from today. Respondent No.2 shall decide the representation and supplementary representation with other documents, if any, filed by the petitioner. While doing so respondent No.2 will consider the import and effect of the Resolution of the Government dated 15th January,1982 and the matter shall be decided within a period of three months from the date of receipt of representation as aforesaid. In case the grievance of the petitioner is accepted, then the petitioner shall be entitled to all the consequential benefits which shall be given to him within a period of three months from the date of passing such order. In case the petitioner is not found entitled to any relief it is expected of respondent No.2 to pass a reasoned order and a copy of the same shall be sent to the petitioner by registered post. The writ petition stands disposed of accordingly. Rule discharged in aforesaid terms. No order as to costs.

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